

AMENDED IN SENATE JANUARY 5, 2006

SENATE BILL

No. 681

Introduced by Senator Simitian
(Principal coauthor: Assembly Member Frommer)

February 22, 2005

~~An act to add Section 23123 to the Vehicle Code, relating to vehicles.~~ *An act to amend Section 1730 of the Streets and Highways Code, and to amend Section 21960 of the Vehicle Code, relating to transportation.*

LEGISLATIVE COUNSEL'S DIGEST

SB 681, as amended, Simitian. ~~Vehicles: wireless telephones.~~
Transportation: pedestrian access.

Existing law authorizes the Department of Transportation and local authorities, by order, ordinance, or resolution, to prohibit or restrict the use of freeways and expressways by pedestrians, bicycles or other nonmotorized traffic, or by any person operating a motor-driven cycle, motorized bicycle, or motorized scooter. Existing law provides that any ordinance, adopted on or after January 1, 2005, that prohibits pedestrian access to a county freeway or expressway shall not be effective unless specified findings are made and, with respect to a county freeway or expressway within the limits of a city, the ordinance is approved by the city.

This bill would delete expressways from those provisions authorizing the department and local authorities to restrict or prohibit pedestrian access. The bill would also delete the provisions requiring findings to be made, and city approval, in order to prohibit or restrict pedestrian access to a county freeway.

~~Under existing law, motor vehicle operation is closely regulated, and drivers must follow many legal requirements or face criminal~~

sanctions. Under existing law, it is a crime for a person to drive a schoolbus or transit vehicle while using a wireless telephone, except for certain work-related or emergency purposes.

This bill would make it an infraction, operative January 1, 2007, to drive a motor vehicle while using a wireless telephone, unless that telephone is designed and configured to allow hands-free listening and talking operation, and is used in that manner while driving. This offense would be punishable by a fine of not more than \$20 for a first offense and not more than \$50 for each subsequent offense, including all assessments and court costs. The bill would provide that this prohibition does not apply to a person who is using the cellular telephone to contact a law enforcement agency or public safety entity for emergency purposes, or to an emergency services professional while he or she operates an authorized emergency vehicle, as specified.

By creating a new infraction, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no. State-mandated local program: ~~yes~~-no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 1730 of the Streets and Highways Code
- 2 is amended to read:
- 3 1730. (a) No ordinance of a city relating to the stopping,
- 4 standing or parking of a vehicle shall become effective as to a
- 5 county highway established pursuant to this article within the city
- 6 without prior submission to and approval by the board of
- 7 supervisors. No city shall erect or maintain any stop sign,
- 8 semaphore, or other traffic control signaling device in a manner
- 9 that requires the traffic on any county highway established
- 10 pursuant to this article within the city to stop before entering or
- 11 crossing any intersecting street or any railroad grade crossing,
- 12 without the permission of the board of supervisors.

1 ~~(b) An ordinance adopted on or after January 1, 2005, by a~~
2 ~~county under Section 21960 of the Vehicle Code to prohibit or~~
3 ~~restrict pedestrian use of a portion of a county freeway or~~
4 ~~expressway contained within the limits of a city shall not become~~
5 ~~operative until approved by the city.~~

6 *SEC. 2. Section 21960 of the Vehicle Code is amended to*
7 *read:*

8 21960. (a) The Department of Transportation and local
9 authorities, by order, ordinance, or resolution, with respect to
10 freeways, ~~expressways~~, or designated portions thereof under their
11 respective jurisdictions, to which ~~vehicle access is completely or~~
12 ~~partially controlled~~ *all rights of access have been acquired*, may
13 prohibit or restrict the use of the freeways, ~~expressways~~, or any
14 portion thereof, by pedestrians, bicycles or other nonmotorized
15 traffic or by any person operating a motor-driven cycle,
16 motorized bicycle, or motorized scooter. A prohibition or
17 restriction pertaining to bicycles, motor-driven cycles, or
18 motorized scooters shall be deemed to include motorized
19 bicycles; and no person may operate a motorized bicycle
20 wherever that prohibition or restriction is in force.
21 Notwithstanding any provisions of any order, ordinance, or
22 resolution to the contrary, the driver or passengers of a disabled
23 vehicle stopped on a freeway ~~or expressway~~ may walk to the
24 nearest exit, in either direction, on that side of the freeway ~~or~~
25 ~~expressway~~ upon which the vehicle is disabled, from which
26 telephone or motor vehicle repair services are available.

27 (b) The prohibitory regulation authorized by subdivision (a)
28 shall be effective when appropriate signs giving notice thereof
29 are erected upon any freeway ~~or expressway and the approaches~~
30 ~~thereto. If any portion of a county freeway or expressway is~~
31 ~~contained within the limits of a city within the county, the county~~
32 ~~may erect signs on that portion as required under this subdivision~~
33 ~~if the ordinance has been approved by the city pursuant to~~
34 ~~subdivision (b) of Section 1730 of the Streets and Highways~~
35 ~~Code.~~

36 (c) No ordinance or resolution of local authorities shall apply
37 to any state highway until the proposed ordinance or resolution
38 has been presented to, and approved in writing by, the
39 Department of Transportation.

~~(d) An ordinance or resolution adopted under this section on or after January 1, 2005, to prohibit pedestrian access to a county freeway or expressway shall not be effective unless it is supported by a finding by the local authority that the freeway or expressway does not have pedestrian facilities and pedestrian use would pose a safety risk to the pedestrian.~~

~~SECTION 1. This act shall be known and may be cited as the California Wireless Telephone Automobile Safety Act of 2005.~~

~~SEC. 2. The Legislature finds and declares all of the following:~~

~~(a) There are significant safety benefits associated with the availability of wireless communication technologies, including providing assistance that helps save lives and minimizes property damage.~~

~~(b) On a daily basis, California drivers make thousands of wireless telephone emergency 911 calls.~~

~~(c) The availability of wireless telephones in motor vehicles allows motorists to report accidents, fires, naturally occurring life-threatening situations, including, but not limited to, rock slides and fallen trees, other dangerous road conditions, road rage, dangerous driving, criminal behavior, including drunk driving, and stranded motorist situations.~~

~~(d) There is growing public concern regarding the safety implications of the widespread practice of using hand-held wireless telephones while operating motor vehicles.~~

~~(e) It is in the best interests of the health and welfare of the citizens of the state to enact one, uniform, motor vehicle wireless telephone use law that establishes statewide safety guidelines for use of wireless telephones while operating a motor vehicle.~~

~~SEC. 3. Section 23123 is added to the Vehicle Code, to read:~~

~~23123. (a) A person may not drive a motor vehicle while using a wireless telephone unless that telephone is specifically designed and configured to allow hands-free listening and talking, and is used in that manner while driving.~~

~~(b) Notwithstanding subdivision (a) of Section 42001 or any other provision of law, a violation of this section is an infraction punishable by a fine, including all penalty assessments and court costs imposed on the convicted person, of not more than twenty dollars (\$20) for a first offense and not more than fifty dollars (\$50) for each subsequent offense.~~

1 ~~(e) This section does not apply to a person using a wireless~~
2 ~~telephone for emergency purposes, including, but not limited to,~~
3 ~~an emergency call to a law enforcement agency, health care~~
4 ~~provider, fire department, or other emergency services agency or~~
5 ~~entity.~~

6 ~~(d) This section does not apply to an emergency services~~
7 ~~professional using a wireless telephone while operating an~~
8 ~~authorized emergency vehicle, as defined in Section 165, in the~~
9 ~~course and scope of his or her duties.~~

10 ~~(e) This section shall become operative on January 1, 2007.~~

11 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
12 ~~Section 6 of Article XIII B of the California Constitution because~~
13 ~~the only costs that may be incurred by a local agency or school~~
14 ~~district will be incurred because this act creates a new crime or~~
15 ~~infraction, eliminates a crime or infraction, or changes the~~
16 ~~penalty for a crime or infraction, within the meaning of Section~~
17 ~~17556 of the Government Code, or changes the definition of a~~
18 ~~crime within the meaning of Section 6 of Article XIII B of the~~
19 ~~California Constitution.~~